

FORT BELVOIR WILL WORKSHEET

Our Process. All information provided in this form is confidential, and your attorney will return this form to you at the conclusion of your appointment. If you are married, and your spouse desires to have a will prepared that is similar in content to yours, you need to only complete one form. Please bring this completed worksheet to your appointment. In most cases, your estate plan will be prepared and executed in your first visit to our office. If you are deploying, please let us know of your departure date, and we will ensure that you receive priority service. Lastly, your time spent with your attorney during the estate planning appointment is your time to discuss your objectives and create a plan that is tailored to your unique needs. We try to keep distractions to a minimum so that you and your attorney can have a meaningful and focused discussion during this process.

General Estate Planning Considerations. Estate planning creates a process in which your property and assets are given to others upon your death. It can also include the preparation of documents that permit others to make financial and medical decisions for you in the event you become incapacitated or are otherwise unable to manage your affairs. There are many ways to transfer property to family and beneficiaries upon one's death, and these transfers may have different tax treatments. Please note that your legal assistance attorney is not a financial planner, and is not able to give you financial planning advice. We strongly encourage our clients to seek the services of a professional financial / tax professional when developing their estate plan. Every estate plan is different, and the plan prepared with your attorney will likely include a unique combination of various methods of transfer, which may include: A) Joint ownership of assets; B) Designation of beneficiaries; and C) a Will. In many cases, a will may not actually control certain assets, and may not be the best way to pass assets to others. (Wills require court administration that can be lengthy and costly). Please note that while we prepare wills with trusts (known as "testamentary trusts" which are administered through the courts), we do not write living trusts or gun trusts. To better understand this process, it helps to look at the unique characteristics of each type of transfer.

A) Joint ownership of assets. The manner in which assets are owned or titled, is the **first factor** in determining who the asset will go to when an owner dies. If assets are jointly owned by persons **who have the right of survivorship**, title of ownership continues to vest in the surviving owner upon the death of a joint owner. For example, if a married couple has all of their bank accounts, real estate and other property titled in the names of both spouses with the right of survivorship, then upon the death of the first spouse the surviving spouse becomes the sole owner of the property. Joint ownership takes precedence over the will, and there is no need for probate or an executor, as these assets are automatically owned by the surviving spouse. The transfer is immediate and in most cases, there is no legal or administrative work to do to ensure that the surviving spouse has ownership and access to these assets. (Note however, that while it may be wise to jointly own real estate with a spouse, joint ownership with a child is not normally recommended. In addition, joint ownership can create tax

consequences in certain situations.) Remember, that a joint owner is in fact an owner of the property from the moment the assets are titled in the name of the joint owner, and as an owner, that person has the same right and access to the assets as the other owners. To help prepare for your appointment, please evaluate your assets to determine whether you have named any joint owners and be aware that certain forms of joint ownership (like tenancy in common) does not transfer ownership to the surviving owners upon the death of a co-owner.

B) Designation of beneficiaries. If there are no joint owners with the right of survivorship upon death, then the assets will next go to any beneficiaries who are named on the asset. This transfer requires some minor administration with the bank, life insurance company, or other entity, and may take a few weeks to accomplish, but does not require probate, a will or executor. You can name beneficiaries to your bank accounts using a “**Payable on Death (POD)**” form from your bank, and a Transfer on Death (TOD) form can be used for non-retirement mutual fund and stock accounts. In Virginia, you can even name a beneficiary to your real estate using a “**Transfer on Death Deed**”. Finally, life insurance and retirement assets also use beneficiary designations to move assets upon the death of the owner. As with joint ownership, beneficiary designations take precedence over the will and do not require a will, an executor or probate – saving time and money. If you have minor children or disabled beneficiaries, you may want to pay life insurance and other assets into a trust created in your will – be sure to talk to your attorney about this process. To help prepare for your appointment, please evaluate your assets to determine whether you have named any beneficiaries to any of your accounts, life insurance policies or real estate.

C) Wills. **Only assets that do not have joint owners with the right of survivorship, or named beneficiaries fall to the will.** A will requires probate (court action). In Virginia, this legal process takes about 18 months to complete, and can be expensive. The will is the last process to control disposition of assets, as assets that are jointly owned (with the right of survivorship), and property that has beneficiary designations will take precedence over the will, and will be paid out before the will is probated. However, a will is vital if you have minor children or other beneficiaries that are not yet ready to manage assets on their own, as the will can include a **trust** that allows you to designate a person to look after your beneficiary’s assets until your beneficiary is able assume sole ownership and control of the assets, at an age that you consider appropriate. If you have children from a prior marriage or relationship, you should discuss “pre-residuary trust” options with your attorney. These trusts ensure that your children from prior relationships will obtain your intended inheritance to them. Your will should also name guardians for your minor children in the event you die while your children are young. Please be sure to discuss special life insurance options with your attorney when leaving life insurance money to the trust for your minors.

Tax Issues. Our office does not provide detailed advice regarding estate planning tax issues, and we encourage our clients to seek additional guidance in tax matters from professional

financial planners, CPAs, Enrolled Agents, and/or tax attorneys. However, there are several important considerations to keep in mind when you are developing your estate plan. First, leaving assets to your beneficiaries may result in a tax liability to both the donor (giver) and the donee (recipient), but in many cases careful estate planning can greatly reduce or eliminate these tax liabilities. Generally, a donor is not taxed on gifts unless the value of the gifts exceed \$11M. Likewise, the value of a gift given at the death of the grantor is not normally counted as federal income to the recipient.

However, the recipient may face a capital gains tax when the property is later sold, exchanged or transferred. Said another way, it is the recipient's subsequent sale of the inherited capital asset that may trigger the tax. To determine whether a person has incurred a capital gains tax when they later sell, give or otherwise transfer the property, you must first determine the person's "basis" in the property. Basis is the amount of the initial investment in the property and is usually the initial costs plus other improvements. After the property is later sold, you would subtract the basis from the sale price to determine any taxable profit or capital gains from the sale.

Generally, transfers that occur on the death of the owner of assets or property convey a "stepped up basis" to the new owner of the property. In other words, the new owner of the property receives as a basis the fair market value of the property as of the date of death of the first owner, and this is a good thing. For example, if Mr. Smith, upon his death, leaves his \$500,000 house, (which was titled in his name only and purchased for \$100,000), to his daughter through his will or a transfer on death deed, his daughter will receive the house with a basis equal to the fair market value. This means that if the daughter later sells the house for \$500,000, there will be no capital gains tax since the sale price minus the basis is zero. However, the daughter does **not** receive a stepped up basis if Mr. Smith were to transfer ownership of the same house to his daughter **before** his death, (for example through a quitclaim deed). In such cases, the recipient uses the basis of the grantor as of the date of her transfer of the asset. Under this scenario, upon the daughter's subsequent sale of the property for \$500,000, the daughter would be liable to pay a capital gains tax on the sale price (\$500,000) minus the basis (\$100,000). In other words, she would pay a tax on the \$400,000 realized from the sale.

The same rules apply for jointly-owned property upon the death of the first owner. Property that was owned jointly with the right of survivorship is owned by the surviving owner upon the death of the first owner. The surviving owner may have to pay a capital gains tax on the proceeds of the gain upon his or her subsequent sale or transfer of the property. To determine if the sale is taxable, the surviving spouse must determine his or her basis in the property, and subtract that from the sale price. If the property is transferred or sold for more than the basis, there would be a capital gains tax on the sale. When property is held by two owners in joint tenancy, only half of it gets a stepped-up tax basis when the first owner dies. For example, say a couple owns a house worth \$200,000, which they initially purchased for \$150,000. Upon the death of the first owner, the survivor gets a stepped-up tax basis in

the half she inherits. She already owned the other half-interest, so her basis stays the same. That means that her new basis is \$175,000. (The basis in her original half-interest is still \$75,000, and the basis of the half-interest she inherits is \$100,000.) For investments and other assets, the same principle holds true.

Powers of Attorney (POA). POAs allow you to select those persons who are best suited and qualified to help you manage your affairs if you become disabled, or are otherwise unable to attend to important matters. During your appointment, your attorney will discuss the full range of POAs that are available, including financial and medical documents, and will help you prepare and execute the documents best suited to your needs.

When completing the following worksheet, please provide as much information as possible. The worksheet will be returned to you when your appointment is concluded. After your appointment, this form should be retained and stored with your will and other documents, as it provides critical information to your family regarding the composition of your estate.

A. INFORMATION ABOUT CLIENT.

Client's Full Name: _____ Rank: _____ DODID: _____
Address: _____
U.S. citizen? _____ State of residence _____ Email: _____
Phone: (cell): _____ (work): _____ (home): _____
Marital Status: _____ Previously married? _____ *(Please bring any divorce decrees, marital separation or prenuptial agreements to your appointment.)*

Deployment date: _____

B. INFORMATION ABOUT SPOUSE.

Spouse's Full Name: _____ Rank: _____ DODID: _____
Address: _____
U.S. citizen? _____ State of residence _____ Email: _____
Phone: (cell): _____ (work): _____ (home): _____
Marital Status: _____ Previously married? _____ *(Please bring any divorce decrees, marital separation or prenuptial agreements to your appointment.)*

Deployment date: _____

C. CHILDREN. Please tell us about all of your natural, step and adopted children.

Child's Name	Age	Natural, Step or Adopted?	Disabled?	Names of Parents

D. COMPOSITION AND VALUE OF ESTATE. List all separately or jointly owned assets

1. REAL ESTATE

Property Address	Owners	Net value of parcel (fair market value less loans and mortgages)	Have you already executed a transfer on death deed for this property?
		\$	
		\$	
		\$	
		\$	
		\$	
	TOTAL	\$	

2. BANK ACCOUNTS / INVESTMENTS

Financial Institution	Account Type / Number	Balance	Current Owners	Have you <u>already</u> named a “ Pay on Death ” beneficiary to this account? If so, who?
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		
	TOTAL:	\$		

3. RETIREMENT ACCOUNTS

Financial Institution	Account Type / Number	Balance	Current Owner	Have you <u>already</u> named a “ Pay on Death ” beneficiary to this account? If so, who?
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		
	TOTAL:	\$		

4. LIFE INSURANCE – Include all policies please

Financial Institution	Account Type	Account #	Death Payout	Have you already named a beneficiary to this account? If so, who?
SGLI (active duty military)	Term	N/A	\$400,000	
Death gratuity (active duty military)	DD 93 form	N/A	\$100,000	
			\$	
			\$	
			\$	
			\$	
			\$	
		TOTAL:	\$	

5. OTHER ASSETS OF SIGNIFICANT VALUE - Personal property, jewelry, automobiles, etc.

Description of item	Location	Net value of item (fair market value less loans)	Current Owners
		\$	
		\$	
		\$	
		\$	
	TOTAL:	\$	

TOTAL NET VALUE OF ALL ASSETS: \$_____

6. DEBTS - List all debts other than those already recorded in this worksheet

Bank / Creditor	Account #	Current Balance	Persons Obligated On This Debt
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		TOTAL: \$	

Client notes regarding property and debt:

TOTAL NET VALUE OF ESTATE: \$_____

E. DISTRIBUTION OF PROPERTY UPON YOUR DEATH. In these next sections you can list your beneficiaries, and indicate what property they are to receive. You can leave everything as a “lump sum” distribution to your beneficiaries in Paragraph H (**recommended**), or you can make specific distributions to beneficiaries in Paragraph G (**not recommended**).

F. DISABLED BENEFICIARIES. Regardless of your plan, we need to know if any of your beneficiaries are disabled. Do you wish to leave a gift to a disabled person? _____

If yes, please identify the disabled beneficiary:

Name	Disability	State of Residence

G. SPECIFIC BEQUESTS. You may make separate gifts of cash, specific investments, real estate, or personal property to specific people or charities in your will. These bequests will be distributed first and reduce the amount of property left for your other beneficiaries. Since specific bequests can create problems during the administration of the will, we do not ordinarily recommend them. If you make no specific bequests, all of your property will pass to the beneficiaries listed below in Part H.

Do you wish to make any specific bequest in your will? _____

If yes, please list your specific bequest(s) and who you want to receive it:

Item / Cash Amount	Beneficiary Name	Alternate

H. PRIMARY BENEFICIARIES OF RESIDUARY ESTATE. Whom do you want to receive the property remaining after the payment of your debts and probate expenses, and after your specific bequests have been made? Since most people do not make specific bequests, the "residuary estate" usually describes all of the assets subject to the will that are left to your beneficiaries after all of the debts and any applicable taxes, probate fees are paid.

_____ My spouse, if he/she survives me, and if not, then to my children; or

_____ My children; or

_____ To these beneficiaries in the percentages noted below:

Beneficiary Name / Cell Phone Number	Relationship	Percentage

I. ALTERNATE BENEFICIARIES. If your primary beneficiaries predecease you or die within 30 days of your death, to whom do you wish to leave your estate (provide name, relationship, and percentage of inheritance).

Beneficiary Name / Cell Phone Number	Relationship	Percentage

J. TRUSTS FOR CHILDREN AND OTHERS. If any of your beneficiaries are minors, or incapable of managing money, it may be advisable to create a trust in your will. The trust appoints a money manager who can use the trust funds in support of the beneficiaries' health, education, maintenance and support. But the trust should have a termination date. When do you want your beneficiaries to receive their inheritance free of trust? 18 21 25

Some other age (please indicate the age): _____

Whom do you wish to name as Trustee (the person responsible to manage the money for and support your beneficiaries)? Please include relationship and phone number.

Name	Relationship	Cell Phone Number
1.		
2.		
3.		
4.		

K. FUNDING THE TRUST / SGLI AND LIFE INSURANCE ISSUES. The SGLI policy is the largest single estate asset for many members of our military community, and careful management of this resource is vital to effective estate planning. Servicemembers designate SGLI beneficiaries on the SGLV form 8286 which can be completed online, printed locally, and turned into the S-1 office. Note that beneficiary designations are not effective until they are accepted by the unit. Naming persons over the age of 18 as beneficiaries is a routine matter that causes the policy proceeds to be paid to the named beneficiaries immediately following the death of the insured. If there is no (surviving) beneficiary named, SGLI proceeds will pay out to the following beneficiaries in the order listed: a) spouse; b) children; c) parents; d) executor of estate, or e) next of kin.

Leaving SGLI or other proceeds to minor children requires careful planning, and **naming a minor child as a direct beneficiary to a life insurance policy or other asset is not the best option.**

Those who wish to leave SGLI assets to minors can do so in several different ways. (Note that each option carries different consequences that should be thoroughly considered by the Soldier with an attorney before any decision is made.) The first method is to use a formal trust in your will, known as a "testamentary trust". In such cases, payments are made and managed by the Trustee through the probate process, which provides judicial oversight of the use of the funds over the duration of the trust. To fund a testamentary trust with SGLI proceeds, the SGLV 8286 should be completed to read; "To my Testamentary Trust" or if space allows, "To the trustee of the testamentary trust created in Article ____ of my last will and testament, for the benefit of (name of minor). If no trust, name of child(ren) directly."

The second way to give assets to a trustee or custodian for a minor is by using the Uniform Transfers to Minors Act (UTMA). When used, the insurance company or bank will pay insurance proceeds or other assets to the named UTMA custodians without the probate process required with testamentary trusts. Custodians of UTMA accounts must use the property only for the benefit of the minors, and are required to exercise the standard of care that would be observed by a prudent person dealing with person's own property, but are not subject to any other fiduciary responsibilities. UTMA funds are transferred to the minor upon the child's 18th birthday, unless the number (21) is reflected in the designating language (as in the following sample), in which case the balance of the funds would be paid to the minor upon the child's 21st birthday. To make SGLI transfers under the UTMA, the SGLV 8286 should be completed as follows: "To (name of custodian) as custodian for (name of minor) under the (name of state) Uniform Transfers to Minors Act (21)."

L. EXECUTOR. Your executor (or in some States, "personal representative") ensures your estate is settled upon your death. This person is responsible to pay any legitimate debts upon your death, file accountings and other paperwork with the court, locate and distribute your assets, and file any necessary tax returns. Any adult may serve as your executor, although in Virginia, a nonresident executor must appoint someone who lives in the state to act as an agent. Your executor's in-state agent will accept legal papers on behalf of your estate. Whom do you wish to name as Executor?

Name	Relationship	Cell Phone Number
1.		
2.		
3.		

M. GUARDIANS FOR CHILDREN. If your children are minors when you die, and if the other natural parent is not alive or for any reason cannot act as guardian, the court will normally appoint the person(s) you name in the will to act as legal guardian(s) of your minor children person and property. The individual(s) named will have physical control and custody of the children until they reach 18. Please list your guardians below.

Name	Relationship	Cell Phone Number
1.		
2.		
3.		

N. FUNERAL ARRANGEMENTS. Select all that apply. I desire:

<input type="checkbox"/>	To be cremated
<input type="checkbox"/>	To be buried at a specified gravesite or location. (Please specify location):
<input type="checkbox"/>	To be buried at sea
<input type="checkbox"/>	To receive military honors
<input type="checkbox"/>	Other:
<input type="checkbox"/>	I do not wish to express my desires concerning my remains and leave this decision to those who survive me.

O. POWERS OF ATTORNEY. Your attorney will discuss the need for General and Medical Powers of Attorney documents during your appointment. Powers of Attorney are documents that allow the people that you trust the most to make decisions on your behalf should you become disabled, or otherwise become unable to attend to your financial or medical affairs. Your Medical POA will have a living will (also called an advance medical directive) provided in the document that can reflect your decisions regarding your care if you are critically ill or in a permanently unconscious state. These are fill-in-the-blank documents that will be completed by you, and then executed, notarized and witnessed in our office.

As you reflect on who would be best able to help you in these issues, you should consider their age and experience, their proximity to you, and their ability to function under stressful and difficult circumstances.

Often, clients select different medical and financial agents. To assist you in completing the actual forms in our office, you should complete the following sections, and then transpose that information onto the actual Power of Attorney documents that will be signed and notarized.

If you become disabled, who do you want to name as your agent to make **MEDICAL** decisions regarding your care:

Name	Relationship	Cell Phone Number
1.		
2.		
3.		

If you are unable to attend to your financial affairs because of disability or any other reason, who do you want to name as your agent to make **FINANCIAL** decisions for you:

Name	Relationship	Cell Phone Number
1.		
2.		
3.		

P. FOR USE AFTER YOUR APPOINTMENT WITH LEGAL ASSISTANCE. If you would like your family to have access to your computers and various online accounts (Facebook, Twitter, iTunes, etc.), then you may want to record that information for your family in the area below.

Computer/ Account	Username	Password	Date updated

POST-SIGNING ADVICE

Our office does not keep copies of any of the documents that are executed by you, so it's important to safeguard these records, and ensure that they are available when needed. Since your executor will be required to produce the signed, original will, it is vital that he or she has access to it. We do not ordinarily recommend making copies of or distributing these documents. Here are some ideas that may help protect your estate plan:

1. STORAGE.

A. *Fire-proof safe / Safe Deposit Box.* You should store these documents in a fire-proof safe in the home, and ensure that your executor and agents named in your POAs have knowledge of and access to the documents. We encourage you to keep this worksheet updated, and located with your other documents, to help your executor identify your assets. You may also want to include computer and account passwords and login information if you would like to pass that information to your family upon your death. If you intend to store your will in a safe deposit box, you may consider including the executor's name on the signature card. Otherwise, you should give the executor a copy of the will, as that person may need it to obtain court-directed access to the safe deposit box.

B. Certain banks, trust companies and other organizations, (such as the Army and Air Force Mutual Aid Association), will store and safeguard your documents for a fee. Please contact these organizations directly for more information.

2. REVIEW. Your will does not expire, and the same may also be true of your powers of attorney. You should review your will and powers of attorney annually to determine if any changes need to be made due to marriage, divorce, death, birth of a child, change of executor, change of a beneficiary or change of guardian, or other reason. We also urge you to review your estate plan with our office every 3-5 years to ensure that your plan is aligned with current law, and your individual needs. Finally, please note that individuals and organizations are not required to accept your powers of attorney. We recommend that you contact any third party (bank, business, etc.) to whom the document might be given, and obtain their review and approval of the document before it's needed.

3. MODIFY. Your estate plan needs to be regularly modified to reflect changes in the law, and changes in your life. The best practice is to return to our office to make changes. Please do not make any pen or pencil corrections to your original will. You may revoke your will by destroying the original with the intent to nullify it, or by executing a new will.